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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

DESIREE WASHINGTON and FREDRICK
WASHINGTON, Wife and Husband,

Plaintiffs,

v.

UNITED STATES OF AMERICA;
LVPF-FAMILY MEDICINE;
LEHIGH VALLEY PHYSICIAN GROUP;
LEHIGH VALLEY HEALTH NETWORK,
INC.;
JOHN/JANE DOE PHYSICIANS A-Z
(multiple fictitious persons); and
JOHN/JANE DOE PROVIDERS A-Z
(multiple fictitious persons); and
JOHN/JANE DOE EMPLOYERS A-Z
(multiple fictitious entities);

Defendants.

CIVIL ACTION NO:

COMPLAINT

JURY TRIAL DEMANDED

PARTIES

1. Plaintiff, Desiree Washington (hereinafter “Desiree Washington” or “Plaintiff”), is a citizen of the state of Pennsylvania, residing at 18 Winfield Court, Easton, Pennsylvania 18045.

2. Plaintiff, Fredrick Washington (hereinafter “Fredrick Washington” or “Plaintiff”), the husband of Desiree Washington, is a citizen of the state of Pennsylvania, who resides with Desiree Washington at 18 Winfield Court, Easton, Pennsylvania 18045.

3. Upon information and belief, at all times relevant hereto, defendant United States of America (hereinafter “USA”) operates a health care facility known as Wilkes-Barre VA Medical Center, located at 1111 East End Blvd, Wilkes-Barre, Pennsylvania 18711 (hereinafter “Wilkes-Barre VA”) and Louis Stokes Cleveland VA Medical Center, located at 10701 East Blvd, Cleveland, Ohio 44106 (hereinafter “Cleveland VA”). A Certificate of Merit pursuant to Pa. R. Civ. P. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as **Exhibit A**.

4. Upon information and belief, at all times relevant hereto, defendant LVPG-Family Medicine represents a health care facility providing primary care to the general public and located at 3080 Hamilton Blvd, Suite 250, Allentown, Pennsylvania 18103. A Certificate of Merit pursuant to Pa. R. Civ. P. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as **Exhibit A**.

5. Upon information and belief, at all times relevant hereto, defendant Lehigh Valley Physician Group (hereinafter “LVPG”) is a medical group providing a range of healthcare services throughout Allentown, Pennsylvania. A Certificate of Merit pursuant to Pa. R. Civ. P. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as **Exhibit A**.

6. Upon information and belief, at all times relevant hereto, defendant Lehigh Valley Health Network, Inc. is a healthcare network based in Allentown, Pennsylvania and comprised of a series of hospitals, health centers, private physician practices, rehabilitation locations, and other miscellaneous outpatient care facilities. A Certificate of Merit pursuant to Pa. R. Civ. P. 1042.1 regarding the treatment, practice, or work of this defendant is attached hereto as **Exhibit A**.

JURISDICTION AND VENUE

7. The claims herein are brought against defendant United States of America pursuant to the Federal Tort Claims Act, 28 U.S.C.A. §1346(b), §2401(b), and §2671 et. seq. (also referred to as the Act).

8. Plaintiffs have complied with the jurisdictional prerequisite to bring suit against the United States of America since they submitted a Standard Form 95 Claim for Damage, Injury or Death to the United States Department of Veterans Affairs in April of 2020. In a letter dated April 13, 2020, a representative from the United States Department of Veterans Affairs acknowledged receipt of plaintiffs' notice of claim on April 8, 2020. More than six (6) months have passed since plaintiffs submitted, and the United States Department of Veterans Affairs received, plaintiffs' notice of claim and the United States Department of Veterans Affairs has failed to make a final disposition of the claim, and plaintiffs may consider said failure to constitute a final denial of the claim pursuant to 28 U.S.C.A. § 2675(a).

9. The United States District Court for the Eastern District of Pennsylvania has subject matter jurisdiction over this matter as asserted against defendant United States of America pursuant to 28 U.S.C.A. § 1346(b)(1), as this claim involves a demand for money damages as a result of personal injury caused by the negligent act or wrongful act or omission of an employee of the Government while acting within the scope of his/her employment under circumstances where the United States if a private person would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

10. The United States District Court for the Eastern District of Pennsylvania has supplemental jurisdiction over this matter as asserted against defendants LVPG-Family Medicine, Lehigh Valley Physician Group, and Lehigh Valley Health Network, Inc. pursuant to

28 U.S.C.A. § 1367 because these claims are so related to the claim against the United States of America that they form part of the same case or controversy under Article III of the United States Constitution.

11. Venue is proper pursuant to 28 U.S.C.A. § 1391 and is appropriate in the United States District Court for the Eastern District of Pennsylvania specifically because plaintiffs reside in Easton, Northampton County, Pennsylvania, which is considered a part of the Eastern District territory.

FACTUAL BACKGROUND

12. On April 9, 2018 Desiree Washington presented to the Cleveland VA Medical Center for an inpatient mental health admission, wherein she complained of 10/10 pain while urinating, a burning sensation while urinating, a history of recurrent urinary tract infections with the most recent episode in November of 2017, and occasional urinary incontinence.

13. During her April 9, 2018 admission, plaintiff was diagnosed with a urinary tract infection and after a resulting urinalysis revealed small blood and bacteria in her urine, she was instructed to follow up with her primary care physician.

14. During her April 9, 2018 admission, plaintiff underwent a follow-up urinalysis on April 18, 2018 which revealed persistent blood with bacteria and large leukocyte esterase, and she was instructed to follow up with the VA Medical Center in Wilkes Barre, PA for further treatment.

15. On May 9, 2018, plaintiff underwent an additional follow up urinalysis at the VA Medical Center – Wilkes Barre, which revealed persistent blood in her urine.

16. Treating CRNP Patricia M. Dehaven noted her subsequent culture was negative for urinary tract infection and did not recommend any further testing, referrals, or follow-up treatment.

17. On October 30, 2018, plaintiff presented to defendant LVPG-Family Medicine and saw Linda Loffredo, M.D. with complaints of blood in her urine, for which a resulting urinalysis revealed yellow urine with large blood and small leukocyte esterase.

18. On or about November 2, 2018 defendant LVPG-Family Medicine's records indicate Linda Loffredo, M.D. called plaintiff to report her urine culture had come back negative, an infection was ruled out as the source of her symptoms, and she was not recommended for any further testing, referrals, or follow-up treatment.

19. On June 6, 2019, plaintiff presented to St. Luke's Hospital with complaints of left lower back pain and imaging revealed hydronephrosis, for which subsequent testing was carried out in the following weeks, eventually revealing locally invasive high-grade urothelial carcinoma obstructing the left ureter.

20. On July 19, 2019, plaintiff was admitted to St. Luke's Hospital for a TURBT procedure, the pathology from which confirmed invasive high-grade papillary urothelial carcinoma, with a tumor invading the lamina propria and underlying muscularis propria, and with lymphovascular invasion.

21. On August 16, 2019 plaintiff presented for urologic oncologic evaluation at the Fox Chase Cancer Center and she was started on chemotherapy treatment.

22. On August 30, 2019 an MRI of the pelvis revealed extensive carcinoma involving the urinary bladder with extension to the vagina with regional pelvic lymphadenopathy.

23. On October 22, 2019 a liver mass biopsy revealed metastatic urothelial carcinoma, consistent with metastasis from known bladder primary.

24. On February 15, 2020 an MRI of the pelvis revealed metastatic disease involving the midline sacrum and left coccyx with involvement of the left S3 and S4 nerve roots with overlying edema of the left gluteus medius muscle.

25. On August 7, 2020 a CT of the right lower extremity revealed a mass involving the right lateral tibial plateau probably representing metastatic disease.

26. Plaintiff has continued to treat with chemotherapy, radiation, and surgery as recommended.

COUNT I

27. Plaintiffs repeat each and every allegation contained in paragraphs 1 through 26, as though they were set forth herein.

28. At all times material hereto, defendant United States of America acted by and through its respective actual and/or ostensible employees, agents, principals, servants, contractors, and representatives, all of whom acted within the scope of their employment, servanthship, agency and/or office.

29. Accordingly, defendant United States of America is bound by and vicariously liable for the actions and omissions of their actual and/or ostensible agents, principals, servants, contractors, and representatives.

30. Defendant United States of America, individually and acting through its authorized agents, servants, workmen, and employees, undertook and/or assumed a duty to render reasonable, proper, adequate, and appropriate medical care to plaintiff Desiree Washington and to avoid harm to her, which duty has been breached by defendants.

31. In the care and treatment of plaintiff, defendant United States of America deviated from the acceptable standard of care and/or breached the obligation of informed consent in the following

respects, or in any other such ways as discovery may reveal, and such deviations significantly increased the risk of harm to plaintiff:

- a.** Failure to refer plaintiff to a urologist for further work-up following recurrent urinary symptoms and abnormal urinalyses;
- b.** Failure to appropriately work up and/or treat persistent microscopic hematuria in April and May of 2018 in the setting of abnormal urinalyses, clinical symptoms, and historically recurrent urinary infections;
- c.** Failure to appropriately evaluate plaintiff in April and May of 2018;
- d.** Failure to appreciate the significance of plaintiff's ongoing urinary tract infections and abnormal urinalyses;
- e.** Failure to order appropriate specialty consultations for plaintiff following abnormal urinalyses and warranting symptoms;
- f.** Failure to properly and adequately supervise employees, servants, and/or agents involved in the care and treatment of plaintiff in April and May of 2018;
- g.** Failure to properly and adequately ensure continuity of care between various VA locations through which plaintiff received medical care;
- h.** Failure to advise plaintiff that her ongoing urinary symptoms and infections could be a sign of cancer and that she will require further testing and/or evaluation to confirm same;
- i.** Failure to provide plaintiff with information that a prudent patient in her position would deem material in deciding to undergo the recommended medical treatment;
- j.** Such other negligent and careless conduct, acts and/or omissions as may be revealed upon further investigation and/or discovery in this action.

32. As a direct and proximate result of the above said deviations from the acceptable standard of care and/or breach of the obligation of informed consent as aforesaid, defendant United States of America substantially increased the risk of harm to plaintiff, causing her to suffer serious and permanent injuries including, but not limited to, conscious pain and suffering, loss of enjoyment of life, loss of earning power, emotional anguish, and other damages, losses and expenses.

WHEREFORE, plaintiff demands judgment on this Count against defendant United States of America jointly, severally, and in the alternative for damages, losses, and expenses together with interest and costs of suit.

COUNT II

33. Plaintiffs repeat each and every allegation contained in paragraphs 1 through 32, as though they were set forth herein.

34. Upon information and belief, at all times material hereto, defendant LVPG-Family Medicine is owned and/or controlled and/or managed and/or apparently controlled or managed by defendants Lehigh Valley Physician Group and/or Lehigh Valley Health Network, Inc.

35. At all times material hereto, defendants LVPG-Family Medicine, Lehigh Valley Physician Group, and Lehigh Valley Health Network, Inc. acted by and through their respective actual and/or ostensible employees, agents, principals, servants, contractors, and representatives, all of whom acted within the scope of their employment, servanthship, agency and/or office in providing primary medical care to plaintiff.

36. Defendants LVPG-Family Medicine, Lehigh Valley Physician Group, and Lehigh Valley Health Network, Inc., acting through their actual and/or ostensible employees, agents, principals, servants, contractors, and representatives, undertook and/or assumed a duty to render reasonable, proper, adequate, and appropriate medical care to Desiree Washington and to avoid harm to her, which duty has been breached by defendants.

37. In the care and treatment of plaintiff, defendants LVPG-Family Medicine, Lehigh Valley Physician Group, and Lehigh Valley Health Network, Inc. deviated from the acceptable standard of care and/or breached the obligation of informed consent in the following respects, or in any other such ways as discovery may reveal, and such deviations significantly increased the risk of harm to plaintiff:

- a.** Failure to refer plaintiff to a urologist for further work-up following concerning urinary symptoms and abnormal urinalysis in October and November of 2018;
- b.** Failure to obtain an adequate and/or accurate patient history;
- c.** Failure to appropriately work up, find the root cause of, and/or treat gross hematuria in October and November of 2018;
- d.** Failure to appropriately evaluate plaintiff in October and November of 2018;
- e.** Failure to appreciate the significance of plaintiff's ongoing urinary tract infections and abnormal urinalysis without evidence of an infection;
- f.** Failure to order appropriate specialty consultations for plaintiff following abnormal urinalysis and unexplained blood in her urine;
- g.** Failure to properly and adequately supervise employees, servants, and/or agents involved in the care and treatment of plaintiff in October and November of 2018;
- h.** Failure to independently verify the alleged unavailability of plaintiff's medical records from the VA;
- i.** Failure to advise plaintiff that her ongoing urinary symptoms and infections could be a sign of cancer and that she will require further testing and/or evaluation to confirm same;

- j. Failure to provide plaintiff with information that a prudent patient in her position would deem material in deciding to undergo the recommended medical treatment;
- k. Such other negligent and careless conduct, acts and/or omissions as may be revealed upon further investigation and/or discovery in this action.

38. As a direct and proximate result of the above said deviations from the acceptable standard of care and/or breach of the obligation of informed consent as aforesaid, defendants LVPG-Family Medicine, Lehigh Valley Physician Group, and Lehigh Valley Health Network, Inc. substantially increased the risk of harm to plaintiff, causing her to suffer serious and permanent injuries including, but not limited to, conscious pain and suffering, loss of enjoyment of life, loss of earning power, emotional anguish, and other damages, losses and expenses.

WHEREFORE, plaintiff demands judgment on this Count against defendants United States of America; LVPG-Family Medicine; Lehigh Valley Physician Group; and Lehigh Valley Health Network, Inc.; jointly, severally, and in the alternative for damages, losses, and expenses together with interest and costs of suit.

COUNT III

39. Plaintiffs repeat each and every allegation contained in paragraphs 1 through 38, as though they were set forth herein.

40. At all relevant times, plaintiff Fredrick Washington was the lawful husband of plaintiff Desiree Washington.

41. As a result of the negligence of all defendants as aforesaid, plaintiff Fredrick Washington suffered and will continue to suffer a loss of society, services, and consortium.

WHEREFORE, plaintiff demands judgment on this Count against defendants United States of America; LVPG-Family Medicine; Lehigh Valley Physician Group; and Lehigh Valley Health Network, Inc.; jointly, severally, and in the alternative for damages, losses, and expenses together with interest and costs of suit.

JURY DEMAND

Plaintiffs hereby demand a trial by jury on all issues so triable as a matter of right pursuant to F.R.C.P. 38(b)(1) and 38(c).

PRAYER FOR RELIEF

WHEREFORE, plaintiffs demand upon defendants the following relief:

- a. Actual compensatory damages;
- b. Pre- and Post – Judgment interest as permitted by law;
- c. An award of attorneys’ fees as permitted by law;
- d. Any and all such further relief as the Court deems just.

Respectfully submitted,

WEISS & PAARZ, P.C.

Date: December 30, 2020

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Attorneys for Plaintiffs

VERIFICATION

Plaintiffs, Desiree Washington and Fredrick Washington, avers that the allegations contained in the foregoing Complaint are true and correct to the best of their knowledge, information and belief and understand and acknowledge that the statements in said Complaint are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsifications to authorities.

A handwritten signature in black ink, appearing to read "Desiree Washington", written over a horizontal line.

DESIREE WASHINGTON

A handwritten signature in black ink, appearing to read "Fredrick Washington", written over a horizontal line.

FREDRICK WASHINGTON

Date: 12/29/20